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In the

Supreme Court of the United States

179

..... Term, 1964

No. [redacted]

STANLEY M. CORBETT, GUARDIAN OF THE PROPERTY OF CONSTANTINE NEONAKIS, A MINOR,

Appellant.

vs.

VIOLA STERGIOS, a/k/a VIOLA STERYIAKIS,

Appellee.

Appeal from the Supreme Court of the State of Iowa

JURISDICTIONAL STATEMENT

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June, 1964

Cockle Printing Company—Law Briefs—Omaha, Nebr.

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STANLEY M. CORBETT, GUARDIAN OF THE PROPERTY OF CONSTANTINE NEONAKIS, A MINOR,

Appellant,

vs.

VIOLA STERGIOS, a/k/a VIOLA STERYIAKIS,

Appellee.

Appeal from the Supreme Court of the State of Iowa

JURISDICTIONAL STATEMENT

Appellant appeals from the opinion and judgment of the Supreme Court of the State of Iowa filed and entered on February 11, 1964, the same being a final Order dismissing Appellant's Petition in Equity.

OPINIONS BELOW

A. Final Order here sought to be reviewed:

Appendix I.—Opinion and Judgment of the Supreme Court of the State of Iowa, filed February 11, 1964, affirming Judgment and Decree of the District Court of

the State of Iowa, in and for Woodbury County, dated October 18, 1962.

B. Earlier Judgment Entry:

Appendix II.—Judgment and Decree of the District Court of the State of Iowa, in and for Woodbury County, dated October 18, 1962.

C. Opinion Reported Below:

Corbett v. Stergios, ___ Iowa ___, 126 N. W. 2d 342 (1964). (Copy of Opinion set out in Appendix I.)

GROUNDS FOR JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES

A. Nature of the Proceeding

This is an action in equity brought by Appellant in the District Court of Iowa, in and for Woodbury County, to reopen the Estate of Nicholas Stergios, No. 22041 Probate, Woodbury County, Iowa, to rescind the Final Report filed therein, and to recover by Appellant two-thirds of the value of the assets of the estate. Appellant claims two-thirds of the estate on the basis that Appellant's ward, a minor residing in Greece, was the adopted child of the deceased Nick Stergios. Nick Stergios died leaving a Will providing only for his wife and a niece, making no mention of children.

The matter was tried before the Honorable Lawrence W. McCormick on July 6, 1962. On October 18, 1962, the Court entered its finding of facts and conclusions of law. Therein the Court found that a valid adoption had taken

place, which would be recognized by the Iowa Courts and that no showing of fraud had been made by Defendant-Appellee. The Court did find, however, that the Treaty between the United States and Greece did not nullify the provisions of Section 567.8, Code of Iowa, 1958. This section, the Court found, places upon Appellant the burden of proving that Greece grants citizens of the United States the right to inherit real estate in Greece before Appellant's ward could inherit in Iowa. Since Appellant did not prove this and the Court found the Treaty did not nullify the Iowa statute, the Trial Court dismissed the action. (See Appendix II.)

Appellant appealed to the Supreme Court of the State of Iowa assigning as error the holding of the Trial Court that the Treaty between the United States and Greece did not allow Plaintiff-Appellant's ward, a citizen of Greece, to take an interest in the estate of his adopting father. On February 11, 1964, by a 5 to 4 decision the Iowa Supreme Court found there was no conflict between the Treaty provisions and Section 567.8, Code of Iowa, 1958, which would nullify the latter. The Court thereupon affirmed the Trial Court's judgment dismissing Appellant's Petition. (See Appendix I.)

B. Dates of Judgment and Appeal

The final Order here sought to be reviewed was made and entered on February 11, 1964. No rehearing was requested.

Notice of Appeal to the Supreme Court of the United States was filed by this Appellant in the Supreme Court of the State of Iowa on April 23, 1964.

C. Statute Conferring Jurisdiction Upon the Supreme Court

This appeal is taken pursuant to the provisions of the Act of June 25, 1948, c. 646, 62 Stat. 929, 28 U.S.C. Sec. 1257 (2). This is an appeal from a final judgment of highest Court of the State of Iowa, where is drawn in question the validity of Section 567.8, Code of Iowa, 1958, on the ground that it is repugnant to the Treaty of Friendship, Commerce and Navigation between the United States and Greece. The Opinion and Order of the Supreme Court of the State of Iowa dated February 11, 1964, found the Iowa statute to be valid.

D. Cases Believed to Sustain Jurisdiction of the Supreme Court in this Appeal

Appellant submits that the following cases decided by this Court sustain its jurisdiction of this appeal. *Hamilton v. Regents of the University of California*, 293 U.S. 245 (1934), rehearing denied 293 U.S. 633 (1935); *Standard Oil Co. of California v. Johnson*, 316 U.S. 481 (1942); *Bantam Books, Inc., v. Sullivan*, 372 U.S. 58 (1963).

E. State Statute and Federal Treaties Involved in Appeal

This action involves the validity of Section 567.1, Code of Iowa, 1958, and Section 567.8, Code of Iowa, 1958. The full text of the two sections of the Iowa Code is set out in Appendix III. The two sections of the Iowa Code are deemed to be repugnant to the Treaty of Friendship, Commerce and Navigation between the United States of America and the Kingdom of Greece, Aug. 3, 1951 (1954), 2 U.S.T. & O.I.A. 1829, T.I.A.S. No. 3057. The text

of the pertinent Articles of the Treaty is set out in Appendix IV.

QUESTIONS PRESENTED BY THE APPEAL

The following question, set out in the Notice of Appeal, or fairly comprised therein, is presented by this appeal:

(1) Whether the Treaty of Friendship, Commerce and Navigation between the United States of America and the Kingdom of Greece nullifies the requirement of Section 567.8, Code of Iowa, 1958, that Appellant non-resident Greek alien must prove the existence of reciprocal rights of succession before he may acquire an interest in Iowa real estate by intestate succession from his adopting father?

STATEMENT OF THE CASE

Appellee married Nicholas Stergios in March, 1946. No children were born of the marriage. On October 20, 1954, Nick Stergios executed a Will naming as his sole beneficiaries, his wife, the Appellee, and a niece known as Eleftheria Stergios. No mention was made of testator's intention to provide for or not to provide for children or afterborn children.

During the year 1956, the Appellee and her husband discussed adopting a child. Proceedings were instituted and completed in the Court of the First Instance of Heracleon, Island of Crete, Kingdom of Greece, whereby Appellant's ward, Constantine Neonakis, a minor child re-

siding in and a citizen of Greece was adopted by Nick Stergios. The Trial Court found that the adoption took place in accordance with Greek law and with the consent of Appellee. The adoption took effect on February 22, 1958, the date of the decree of the Greek Court.

Shortly after the adoption Nick Stergios became ill and died on August 20, 1958. The minor child, who was the son of a niece of Nick Stergios, was never brought to this country.

The Will of Nick Stergios, dated October 20, 1954, was probated as Number 22041 Probate in Woodbury County, Iowa. The minor child was not listed in the probate proceedings as a beneficiary and notice was not given to the minor or any legal representative of any probate proceedings. The estate was closed on March 26, 1959. No distribution was made to Appellant's ward.

On February 15, 1961, Stanley M. Corbett, an attorney, was appointed Guardian of Constantine Neonakis, a minor. Shortly thereafter suit was commenced by the Guardian, Appellant herein, to reopen the estate, set aside the Final Report, and to recover for the minor ward two-thirds of the Estate of Nick Stergios.

Trial was held in equity without jury on July 6, 1962. It was contended in the pleadings and at the trial by Appellant that Appellant's ward was entitled to two-thirds of the estate by virtue of Section 633.13, Code of Iowa, 1958. That section provides in substance that when a testator shall have a child born after the making of a Will and shall die leaving such child neither provided for or mentioned in the Will, such child shall inherit from the

deceased parent as though no Will had been made. A child's intestate share of his parent's estate in Iowa is two-thirds of the estate.

At the trial, as part of Appellant's case, Appellant contended that Section 567.8, Code of Iowa, 1958, was nullified by virtue of the Treaty of Friendship, Commerce and Navigation between the United States of America and the Kingdom of Greece. Appellant, as part of Appellant's case, asked the Court to take judicial notice of the Treaty and offered into evidence a copy of the Greek Treaty as Plaintiff-Appellant's Exhibit "5". This Treaty was offered and received in evidence for the purpose of showing that Section 567.8, Code of Iowa, 1958, was repugnant thereto and to establish the nullification of the Iowa statute.

Section 567.8, Code of Iowa, 1958, set out in full in Appendix III, provides in essence that nonresident aliens may not take title to real property in Iowa unless the nonresident alien can prove the existence of reciprocal rights of succession given to United States citizens to inherit real estate in the foreign country. Here, therefore, under the provisions of Section 567.8, Appellant must prove that Greece gives United States citizens the right to inherit real estate in Greece before Appellant's ward could inherit Iowa real estate.

Appellant contended at the time of trial that Section 567.8, Code of Iowa, 1958, was nullified by the Greek Treaty, and particularly Article IX thereof. The pertinent portions of the Treaty are set out in Appendix IV. Appellant contends that Article IX of the Treaty grants to

nationals of either party to the Treaty, national treatment with respect to the acquiring property in the territory of the other. With respect to Greek nationals, Section 1(a) of Article IX does provide that the acquisition of property within the United States shall be dependent upon the law of the State within which the property is located. This would appear to indicate that in spite of the Treaty, Iowa could place restrictions on the right of aliens to take title to Iowa real estate, such as those provided by Section 567.8, Code of Iowa, 1958. Section 2 of Article IX of the Treaty provides, however, where a national of either country is prevented from receiving national treatment in the acquisition of property by testate or intestate succession because of his alienage, the foreign national shall be given five years to dispose of the property.

Appellant contended at the trial, and still does, that Article IX of the Greek Treaty clearly nullifies Section 567.8, Code of Iowa, 1958, in that the Iowa Code requires proof of reciprocal rights of succession and the Treaty does not. Unless the Appellant could prove that Greece grants United States citizens the right to take real property in Greece, Appellant could not hold title to Iowa real estate by virtue of the Iowa statute. Appellant contends that the Treaty provides that even where state law restricts ownership of real estate by Greeks in the United States because of their alienage, they shall have five years to effect sale of the property and to remove the proceeds.

On October 18, 1962, the Trial Court entered its Judgment and Decree, set out in full as Appendix II, at which time it found that a valid adoption had been effected by which Appellant's ward became the adopted child of Nick

Stergios, and that the status should be recognized by Iowa. The Court did find, however, that Appellant had not proved the existence of reciprocal rights to succession as required by Section 567.8, Code of Iowa, 1958, and that the Treaty did not nullify the Iowa statute. The Court stated:

> "This recognition will extend to and include the section of the law of the State of Iowa with which we are concerned here, Sec. 567.8, and the treaty, therefore, does not make ineffective or attempt to nullify that law, nor the burden placed upon the plaintiff by that law."

The Trial Court thereupon dismissed Appellant's Petition in Equity.

Appellant thereupon appealed the ruling of the Trial Court to the highest Court in the State of Iowa, the Iowa Supreme Court, assigning as the sole ground of error, the following:

> "The Court erred in holding that Treaty between the United States and Greece did not allow plaintiff's ward, a citizen of Greece, to take an interest in the estate of his adopting father."

On February 11, 1964, the Supreme Court of Iowa entered its final judgment and opinion affirming the Trial Court. Four of the nine Justices dissented. The only issue discussed or determined was the assignment of error presented by Appellant as to whether the Treaty nullified the requirements of Section 567.8, Code of Iowa, 1958.

This same proposition has been presented by Appellant in the Notice of Appeal filed as a prerequisite to an appeal to this Court.

Therefore Appellant drew into question the validity of Section 567.8, Code of Iowa, 1958, on the ground that it was repugnant to the Treaty between the United States and Greece at the beginning of the trial. That, and only that issue was decided adversely to Appellant by the Trial Court when it upheld the validity of the Iowa statute. Only the question of the validity of the Iowa statute was discussed by the Iowa Supreme Court and the decision of the majority was in favor of the validity of the statute. Therefore, this case clearly falls within the scope of 28 U. S. C., Section 1257(2), and this Court can find jurisdiction for appeal.

GROUNDS FOR CONTENDING FEDERAL QUESTIONS ARE SUBSTANTIAL

The scope and effect of a Treaty between the United States and Greece is here in question. The highest Court of the State of Iowa gave an extremely restrictive interpretation to the Treaty provisions. The precise question presented is whether Section 567.8, Code of Iowa, 1958, making necessary proof of reciprocal rights of succession by a Greek national in order to enable him to acquire any interest in Iowa real estate by testate or intestate succession, has been nullified by the Greek Treaty.

The Iowa Supreme Court held that reciprocal rights to succession must be proved by a Greek national before he can acquire the right to sell the property inherited within the five year period of time specified in Section 2 of Article IX of the Treaty. Since Appellant did not

prove the existence of reciprocal rights of succession the Iowa Court dismissed Appellant's Petition.

Appellant maintains that the treaty nullifies state statutes and constitutions to the extent they are in conflict with the Treaty. The Greek Treaty here in question provides in Article IX thereof that nationals of either party within the territory of the other party shall be accorded national treatment with respect to acquiring property. The right of Greeks to acquire property in the United States shall be dependent upon the laws of the States within which the property is located. Section 2 of Article IX of the Treaty, however, states that where a party is prevented by his alienage from receiving national treatment in the acquisition of property by succession he shall be given five years to freely dispose of the property.

Appellant and a four justice minority of the Supreme Court of Iowa maintained that Section 2 of Article IX of the Treaty clearly nullified Section 567.8, Code of Iowa, 1958. The Iowa statute makes Appellant prove the right of reciprocal succession because of his Greek alienage. His alienage could prevent Appellant from receiving national treatment in the acquisition of Iowa real estate if he could not prove the existence of reciprocal rights of succession. Consequently, Section 2 of Article IX of the Treaty comes into play. Since Appellant's alienage under Iowa law would prevent him from receiving national treatment in the acquisition of the property in question, he should be given five years to dispose of the property. Section 2 of Article IX of the Treaty confers rights upon Greek nationals broader than those conferred by the Iowa

statute. Appellant and the minority of the Supreme Court of Iowa contend therefore that the Iowa statute is to that extent nullified.

This interpretation of the Greek Treaty is in accord with a previous decision of the United States Supreme Court in the case of *Clark v. Allen,* supra, which involved the interpretation of the effect of a German Treaty on a California reciprocal succession statute nearly identical to Section 567.8, Code of Iowa, 1958. The requirement of the California statute necessitating proof or reciprocal rights of succession was nullified by a Treaty between the United States and Germany, which gave German nationals three years to sell and remove the proceeds.

A substantial nonfrivolous federal question is presented by this appeal. Four of the nine Iowa Supreme Court Justices agreed with the Appellant's position in a dissenting opinion written by the Chief Justice. Nor is the amount in controversy unsubstantial, as the amount claimed by Appellant of the Appellee and the estate is nearly $40,000.00.

Furthermore, it should be noted the effect of the decision of the Iowa Supreme Court will extend beyond the litigants and an interpretation of the Iowa statute. As pointed out by Professor Willard L. Boyd of the College of Law at the University of Iowa in 51 Georgetown Law Journal 470, eleven states, including Iowa, have enacted the so-called reciprocal succession statutes. The effect of the case at bar, unless reversed, will be that the rights obviously granted by the Greek Treaty could be substantially restricted in eleven states in a manner certainly

contrary to the purpose of the Treaty stated preamble thereof. The interpretation placed upon the Treaty by the Iowa Supreme Court would make utterly meaningless all of Article IX of the Treaty, and make the right of a Greek national to acquire real estate in the United States entirely subject to state legislation. Certainly the rights granted to United States nationals by Greece to acquire property in Greece were not granted by Greece with that interpretation in mind. In order to protect the international commitments of this country, then, jurisdiction of this case should be accepted.

Respectfully submitted,

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APPENDIX I.

Opinion and Judgment of the Supreme Court of Iowa Dated February 11, 1964

PETERSON, Justice.

This is an action in equity by appellant to reopen the estate of Nicholas Stergios and set aside the final report in the estate. Petition also prays to recover two-thirds of the estate by plaintiff as guardian of Constantine Neonakis, a minor now approximately eight years of age, living on the island of Crete in Greece. Plaintiff alleged he was an adopted child of decedent; adopted after execution of decedent's will. The trial court held appellant had not carried the burden of proof necessary to establish the right of said minor to claim property in the United States, and dismissed the petition. Plaintiff appealed.

I. Nicholas Steryiakis, commonly known as Nick Stergios, came to the United States from Greece many years ago. He accumulated a substantial estate, mostly in real estate, valued at approximately $60,000 at time of his death. In March, 1946, he married defendant. At that time she was only eighteen years of age. She only had a sixth grade education, and was of Irish-English extraction. She never learned to speak, read or understand the Greek language. Mr. Stergios was fifty-four years of age when he married her. They never had any children of their own and in 1957 by mutual consent and discussion, they decided that Nick would adopt a child from Greece. The child was his great-nephew, being the son of Penelope Neonakis, a niece. Her husband had been killed in battle, and she was a widow.

Early in 1958 Nick and Viola went to Chicago to visit the Greek Consulate about the final procedure necessary to secure the little boy. Viola did not understand the conversation because it was all carried on in Greek between the officials of the Consulate and her husband Nick. The necessary adoption papers were signed by him. Viola also signed a paper, although she could not read it and did not understand it. She was under the impression that both she and Nick were adopting the little boy. The paper she signed was only a consent to the adoption. A petition for adoption had previously been filed by Nicholas Stergios, through an attorney-in-fact in the town of Heracleon on the island of Crete in Greece. The child's mother appeared for him, and consented to the adoption. The necessary hearings were held in court and on February 22, 1958, the court entered adoption decree.

August 20, 1958, Nick Stergios departed this life at Sioux City. He had made a will some years prior to his death in which he gave certain properties to a niece, and bequeathed the remainder of his estate to his widow Viola. She filed the will. It was duly probated. In the course of time the estate was closed and the property divided between the widow and the niece in accordance with the terms of the will.

February 15, 1961, Stanley M. Corbett of Sioux City was appointed guardian of the property of Constantine Neonakis, and this action was started against Viola Stergios for the recovery of two-thirds of the property, on the theory that Neonakis was the heir of Nick Stergios, becoming such heir because the will was made long before the adoption.

II. Appellant urges this one proposition relied upon for reversal: "The Court erred in holding that Treaty between the United States and Greece did not allow plaintiff's ward, a citizen of Greece to take an interest in the estate of his adopting father."

Appellant raises four questions under the above general statement, which he calls Brief Points, as follows: "1. Treaties entered into by the United States with foreign governments are the supreme law of the land, and insofar as state constitutions, statutes and common law are in conflict, they are suspended or invalidated." "2. The treaty between the United States and Greece clearly allows citizens of Greece the right to inherit real and personal property located in any of the states and territories although state law may limit the period of time during which it may be held by the alien." "3. By virtue of the most-favored-nation clauses contained in the Treaty between the United States and Greece, a Greek national is entitled to the benefit of treaties which may be even more liberal than the Greek treaty." "4. Treaties must be interpreted liberally so as to give effect to all rights which may reasonably be claimed thereunder."

III. In order to clarify the situation as between the treaty and our statutory provisions a brief legislative history is advisable. Such statutory provisions appear in chapter 567 denominated "Rights of Aliens." What is now section 567.1 was adopted in 1868 and has been carried in practically the same form in our various Codes throughout the years. In general the section provides that nonresident aliens may hold a devise or a distribution un-

der a will for a period of 20 years. It limits the holding of nonresident alien to 320 acres of land and places no restriction upon personal property.

Various implementing sections were adopted in later years, some appearing first in the Code of 1897 and later Codes, and another section appeared first in the Code of 1913. Considering the chapter incomplete the General Assembly in 1951 adopted section 567.8 pertaining to nonresident aliens which became effective July 4, 1951. It provides—"Aliens' inheritances. 1. The right of aliens not residing within the United States or its territories to take real property in this state by succession or testamentary disposition, upon the same terms and conditions as residents and citizens of the United States *is dependent in each case upon the existence of a reciprocal right upon the part of citizens of the United States to take real property upon the same terms and conditions* as residents and citizens of the respective countries of which such aliens are residents and the right of aliens not residing in the United States or its territories to take personal property in this state by succession or testamentary disposition, upon the same terms and conditions as residents and citizens of the United States is dependent in each case upon the existence of a reciprocal right upon the part of citizens of the United States to take personal property upon the same terms and conditions as residents and citizens of the respective countries of which such aliens are residents. 2. The burden shall be upon such nonresident aliens to establish the fact of existence of the reciprocal right set forth in subsection 1." (Emphasis ours.)

There was offered in evidence and made a part of the record a document known as "TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF GREECE." It was entered into between the two nations in 1954. It pertains to many matters and contains 26 articles.

Article I provides: "Each party shall at all times accord equitable treatment to the persons, property, enterprises and other interests of the nationals and companies of the other party."

Article VIII provides in part: "Neither party shall take unreasonable or discriminatory measures that would impair the legally acquired rights or interests within its territories of nationals and companies of the other party • • • "

Article IX pertains specifically to the ownership of property of the nationals of the respective countries in the other country. Section 1A states: "In the case of nationals • • • of Greece the acquisition by purchase, *or otherwise*, of ownership rights in land, buildings, and other immovable property within the territories of the United States, shall be dependent upon the applicable laws of the *states*, • • • of the United States of America within which such property is located." Section 1B provides: "In the case of nationals • • • of the United States of America the right to acquire by purchase, or otherwise, • • • land, buildings, and other immovable property within the territories of Greece, *shall be subject to restrictions which Greece may consider it necessary to*

impose on the right of aliens to acquire by purchase, or otherwise, • • • such property in specific frontier and coastal areas." (Emphasis supplied.)

"2. Nationals and companies of either party shall be permitted freely to dispose of property within the territories of the other party with respect to the acquisition of which through testate or intestate succession their alienage has prevented them from receiving national treatment, and they shall be permitted a term of at least five years in which to effect such disposition.

"3. Nationals and companies of either party shall be accorded within the territories of the other party national treatment with respect to disposing of property of all kinds."

Article XXIV

"1. The term 'national treatment' means treatment accorded within the territories of a party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of such party. *The term does not imply immunity from the laws and regulations of a party which apply in a non-discriminatory manner to nationals, companies, products, vessels, or other objects, as the case may be, of both parties.*" (Emphasis ours.)

"2. The term 'most-favored-nation treatment' means treatment accorded within the territories of a party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products,

vessels or other objects, as the case may be, of any third country."

Section 567.8 is specific on the matter of reciprocal rights of citizens of the United States and citizens of contracting countries. The importance of reciprocity is emphasized by the terms and conditions of the section. It has been recognized by the Supreme Court of the United States in Clark v. Allen, 331 U.S. 503, 67 S. Ct. 1431, 91 L. Ed. 1633, in the following language: "The argument is based on the fact that under the statute the right of non-resident aliens to take by succession or testamentary disposition is dependent upon the existence of a reciprocal right on the part of citizens of the United States to take personalty on the same terms and conditions as residents and citizens of the other nation. The argument is that by this method California seeks to promote the right of American citizens to inherit abroad by offering to aliens reciprocal rights of inheritance in California. Such an offer of reciprocal arrangements is said to be a matter for settlement by the Federal Government on a nation-wide basis. * * * Nor has California entered the forbidden domain of negotiating with a foreign country * * *. What California has done will have some incidental or indirect effect in foreign countries. But that is true of many state laws which none would claim cross the forbidden line." The decision approved the reciprocal right theory.

IV. Under brief points 1 and 2 appellant contends the trial court erred in that treaties between the United States and foreign governments are the supreme laws of the land and that in fact the provisions of the treaty and the provisions of 567.8 were in conflict and the treaty

superseded the terms of 567.8. Appellant contends under Article IX, Section 2, nationals of Greece were permitted to freely dispose of property in Iowa depending on the provisions of Section 567.1. In the first place the provision of the treaty which requires reciprocal rights as between the nationals of the two contracting countries supersedes any other and later provisions. In Article XXIV, Section 1, of the treaty we find a provision explaining and to a certain extent nullifying the provisions of Article IX, Section 2, where it states: "The term 'national treatment' means treatment accorded within the territories of a party upon terms no less favorable than the treatment accorded therein, in like situations, the nationals of such parties. The term does not imply immunity from the laws and regulations • • • of both parties."

Appellant emphasizes disposal of property. He ignores the fact that before the ward can own and dispose of the property he must acquire it according to: 1. Laws of Iowa. 2. Reciprocal provision of treaty. 3. By carrying the burden of proof as to all facts.

(1, 2) In the case at bar the matter of alien ownership of property is covered by chapter 567. The laws of the State of Iowa are not in conflict with the treaty as a matter of law, in connection with the case at bar. It is a question of fact. In Article IX, Section b, the Kingdom of Greece reserves the right to restrict the right of aliens to acquire by purchase or otherwise, property in specific frontier and coastal areas. Constantine lived in a frontier and coastal area. This is a factual situation and is not a technical legal question. This is the point at

which the trial court held appellant had not carried his burden of proving certain facts in the case. The facts appellant failed to prove were either that Greece had not imposed conditions on United States nationals on the island of Crete in Greece, or if some restrictions had been placed on United States nationals, were they such as interfered in any manner with the provisions of Section 567.8. It was at this point in the treaty Greece reserved the right to put restrictions on United States nationals. Did they or did they not put on restrictions? The record is silent as to these facts. The primary question, and the one of first importance, *of reciprocal rights,* has been clearly emphasized in several Iowa decisions in which the question of inheritance taxes was involved. Inheritance tax is fixed at 20 per cent on property passing under a will to, or inherited by aliens. Code of Iowa, section 450.11, I. C. A.

We have held if United States nationals are entitled under the laws of another contracting country, or by treaty with such country, to the same inheritance tax percentages as nationals of the contracting country, we will only charge the alien the same percentage in our state. McKeown v. Brown, 167 Iowa 489, 149 N. W. 593; In re Moynihan's Estate, 172 Iowa 571, 151 N. W. 504, 154 N. W. 904, L. R. A. 1916 D, 1127, 1129; Brown v. Peterson, 185 Iowa 314, 170 N. W. 444.

(3) If there is an unreconcilable conflict between sections 567.1 and 567.8, the late enactment will control. State v. Blackburn, 237 Iowa 1019, 22 N. W. 2d 821; Iowa-Nebraska Light & Power Co. v. City of Villisca, 220 Iowa

238, 261 N. W. 423; State v. Harper, 220 Iowa 515, 258 N. W. 886; 82 C. J. S. Statutes § 368, page 839.

In the case at bar this is a reasonable development, as there have been many changes among the relationship of people and nations, and as to statutes and treaties between 1868 and 1954.

(4) V. Under brief point 3 appellant contends his ward is entitled to some type of benefits by reason of the most-favored nation clause in the treaty. A peculiar situation pertains to the treaty as to most-favored nation treatment.

The treaty with Greece provides for most-favored nations treatment in regard to only certain subjects in the treaty. Among the 26 articles of the treaty providing for most-favored nations treatment are only Articles II, VI, VII, XII, XVII, XIX, and XXI and XXIV.

There is no such most-favored nations provision in Article IX of the Friendship Treaty with Greece. This is the article which plaintiff-appellant attempts to apply in seeking relief from the court. The other articles specifically spell out when the most-favored nations provision is to apply. Since Article IX contains no such provision, we can only assume that Congress did not intend to apply the most-favored nations provision to this article.

The German Treaty in Article XI specifically refers to the most-favored nations treatment in disposing of property. This is different than the Greek Treaty which does not mention such treatment. Since the treaties were enacted at approximately the same time, we can only assume that Congress intended that as far as the Greek

Treaty is concerned the most-favored nations treatment would not apply to Article IX.

We have here a different situation than the case of Santovincenzo v. Egan, 284 U. S. 30, 52 S. Ct. 81, 76 L. Ed. 151, cited in plaintiff-appellant's Brief. There the treaty specifically contained a most-favored nations treaty provision with regard to the subject under consideration. This is different than the Greek Treaty as far as Article IX is concerned. It would be wrong to apply the most-favored nations treaty clause to the pertinent article of the Greek Treaty when it contained no such provision. This would give it an application broader than intended.

The quotation from the Friendship Treaty with Greece on page 28 of plaintiff-appellant's Brief is apparently from the preamble of this treaty, and does not refer to specific articles as they appear in the treaty.

(5) VI. The fourth brief point of appellant is that treaties should be interpreted liberally so as to give effect to all rights which may reasonably be claimed thereunder. This theory of liberal treatment is considered in Kolovrat v. Oregon, 366 U. S. 187, 81 S. Ct. 922, 6 L. Ed. 2d 218; Doehrel v. Hillmer, 102 Iowa 169, 71 N. W. 204. Liberal interpretation is all right as to doubtful clauses, but it must not change the meaning of a treaty.

In the case of Doehrel v. Hillmer, supra, we said: "Where a treaty admits of two constructions, one restrictive as to the rights that may be claimed under it and the other liberal, the latter is to be preferred."

This theory is correct where two constructions are possible, but in the first place there are no two construc-

tions to be differentiated in the case at bar, and in the second place the theory of liberality does not reach to the point of changing the clear meaning of treaties and statutes. We are not faced with the dilemma in the instant case.

A treaty between nations is dual in purpose. It establishes broad political and commercial rights as between the governments of the two nations. It also grants privileges, rights and obligations between the citizens of each nation, commonly known as nationals. 87 C. J. S. Treaties §§ 1 and 2; 52 Am. Jur., Treaties, sections 1 and 4.

(6) In a judicial construction of a treaty the same general rules apply as pertain to contracts and statutes. As in such cases, the intention of the parties shall have primary consideration. 52 Am. Jur., Treaties, section 12. In re Anderson's Estate, 166 Iowa 617, 147 N. W. 1098, 52 L. R. A., N. S., 686.

As pertaining to the case at bar some of the statements in Am. Jur., supra, are relevant. "* * * a treaty should be given such a construction as will avoid unjust and unreasonable conclusions * * * and such as tends to the common advantage of the contracting parties * * * but not such as will put aliens on a more favorable footing than our own citizens." Also "The courts are not required to * * * place an unreasonable interpretation on it, for the purpose of securing to foreigners privileges which are denied to citizens of this country."

(7) VII. Recapping briefly. The trial court found plaintiff had not carried the burden of offering sufficient evidence to comply with terms of section 567.8. The court

correctly states it cannot be presumed reciprocal rights exist; proof must be introduced.

Subsection (a) provides nationals of Greece may acquire by purchase, or otherwise (like inheritance) the ownership of property in accordance with applicable laws of States within which the property is located. This right is definite and specific.

Subsection (b) provides nationals of the United States may acquire property in Greece by purchase, or otherwise, but such acquisition "*shall be subject to restrictions which Greece may consider it necessary to impose on the rights of aliens * * * in specific frontier and coastal areas.*"

Appellant failed to carry the burden of proof as to restrictions, if any, imposed by Greece; or if none, the fact that there were none.

(8) There is complete lack of reciprocity under Code section 567.8, I. C. A. Professor Boyd worded it succinctly, and we believe correctly, in his article in 47 Iowa Law Review, supra, in following language: "The language of section 567.8 of the Iowa Code (I. C. A.) permits only two alternatives; the alien residing in a foreign country can either take real or personal property by succession on equal terms with residents and citizens of the United States or he can take nothing."

(9) VIII. The decision of the trial court was also based upon the fact that there is a lack of reciprocity as follows: In Iowa there appears in section 600.6, Code of Iowa, I. C. A., the following provisions: "Status of

the adopted child. Upon the entering of such decree, the rights, duties, and relationships between the child and parent by adoption shall be the same that exist between parents and child by lawful birth and the right of inheritance from each other shall be the same as between parent and children born in lawful wedlock."

A duly verified copy of the Greek civil law pertaining to adoption was offered in evidence. A portion of Article 1643 of chapter 13, pertaining to adoption provides as follows: "The adoptive parent does not have any inheritance rights over the adopted child."

This is not reciprocity as between the citizens and nationals of the two countries. The provisions are contrary to each other.

The decision of the trial court is affirmed.

Affirmed.

HAYS, LARSON, THORNTON and STUART, JJ., concur.

GARFIELD, C. J., and THOMPSON, SNELL and MOORE, JJ., dissent.

GARFIELD, Chief Justice (dissenting).

I must dissent.

Plaintiff-appellant states a single proposition he relies on for reversal—that the trial court erred in holding the treaty between the United States and Greece did not allow plaintiff's ward, a citizen of Greece, to take an interest in the estate of his adopting father.

In an able brief plaintiff cites Article VI of the federal constitution, three decisions of the supreme court, our own case of Opel v. Shoup, 100 Iowa 407, 423, 69 N. W. 560, 37 L. R. A. 583, and the article by Professor Boyd in 47 Iowa Law Review 105, 117, to which the majority refers, as authority for the point that treaties between the United States and foreign governments are the supreme law of the land and insofar as state statutes are in conflict therewith they are suspended. To like effect are Doehrel v. Hillmer (Ladd, J.), 102 Iowa 169, 171, 71 N. W. 204, and In re Klug's Estate, 251 Iowa 1128, 1136, 104 N. W. 2d 600, 604.

The annotation in 4 A. L. R. 1377, 1383-4, cites a long list of decisions, including many others from Iowa, for the point plaintiff makes. Additional, more recent, precedents are cited in Anno. 134 A. L. R. 882, 885.

The article by Professor Boyd, supra, states: "Because treaties are given supremacy over state laws by the federal constitution, restriction such as Iowa has placed on rights of nonresident aliens are of no effect when in conflict with more liberal treaty provisions."

Plaintiff's principal reliance is upon Article IX, 2, of the treaty between the United States and Greece which provides: "2. Nationals and companies of either party shall be permitted freely to dispose of property within the territories of the other party with respect to the acquisition of which through testate or intestate succession their alienage has prevented them from receiving national treatment, and they shall be permitted a term of at least five years in which to effect such disposition."

Plaintiff argues this provision, means that if a Greek national is prevented by his alienage from acquiring by succession property in a state in the same manner an American national may acquire it, the Greek shall be permitted to dispose of the property within five years. In other words, it is plaintiff's contention that Article IX of the treaty provides Greeks shall be able to acquire property in the United States but the states may place restrictions on its acquisition. And if they do, the Greek shall have up to five years to dispose of his property.

The article by Professor Boyd in 47 Iowa Law Review 105, 116-7, refers to a number of recent treaties of "Friendship, Commerce and Navigation," as this treaty is designated, between the United States and a foreign country which "have required that the alien beneficiaries dispose of the property within five years."

An article by Professor Boyd in 51 Michigan Law Review 1001, 1016, states: "The predominant treaty right granted to aliens is a qualified one. The alien is allowed a specified period of time in which to liquidate the realty and remove the proceeds without restraint or interference from the country in which it is situated. By this method the states are left to determine their own policies concerning the holding of realty by aliens and at the same time the alien is allowed the market value of the property and forfeiture is avoided."

Professor Boyd observes at page 118 of his article, supra, in the Iowa Law Review, "It is often said that treaties are to be liberally construed in order to effectuate the spirit of the nations' agreement."

The United States supreme court has said: "where a treaty admits of two constructions, one restrictive as to the rights that may be claimed under it, and the other liberal, the latter is to be preferred." (citation). Hauenstein v. Lynham, 10 Otto 483, 487, 100 U. S. 483, 487, 25 L. Ed. 628, 629. Doehrel v. Hillmer, supra, 102 Iowa 169, 172, 71 N. W. 204, 205, quotes this with approval.

If Article IX, 2, of the treaty here is fairly susceptible of the meaning plaintiff ascribes to it, and I think it is, it seems clear the restriction on ownership of property contained in our Code section 567.8, on which the majority decides this case, is suspended or rendered ineffective by the treaty unless the Greek national attempts to hold the property longer than five years. Plaintiff appears to have a valid claim under the terms of this treaty to the property in controversy here. The more restrictive and conflicting provisions of our Code section 567.8 are ineffective as to plaintiff's ward and plaintiff is not required to prove the existence of reciprocal rights as the statute contemplates.

I think Doehrel v. Hillmer, supra, 102 Iowa 169, 71 N. W. 204, and Ahrens v. Ahrens, 144 Iowa 486, 489, 123 N. W. 164, Am. St. Rep., tend to support this view. The Ahrens opinion states, "That the right to sell carried with it the ownership as a necessary incident to the power of sale is held by all the authorities."

I understand the principal basis of the majority's decision is plaintiff's failure to prove that under Greek law no restriction not reciprocal is placed on the right of nationals of the United States to inherit property in

Greece and we are told plaintiff had the burden to establish such reciprocal right. It is true our Code section 567.8, subd. 2, I. C. A., so provides. However, the treaty contains no such provision and it is "the supreme law of the land." The requirement of our statute is more restrictive than the provisions of the treaty and they control. The effect of the majority opinion is that more restrictive provisions of section 567.8, subd. 2, are made to supersede the treaty.

I would reverse.

THOMPSON, SNELL AND MOORE, JJ., join in this dissent.

APPENDIX II.

Judgment and Decree of District Court of Iowa in and for Woodbury County Dated October 18, 1962

JUDGMENT AND DECREE

This matter came on for hearing before the Court on July 6, 1962. The plaintiff appeared by his attorneys, Gleysteen, Nelson, Harper, Kunze & Eidsmoe, by Robert R. Eidsmoe and Allan J. Carew, and the defendant appeared personally and by her attorneys, H. A. McQueen and Phillip S. Dandos; and the Court, having heard the evidence and the arguments of counsel for the respective parties, having examined the exhibits admitted in evidence, and the file, and being well and fully advised, FINDS:

FINDINGS OF FACT

The plaintiff is the duly appointed and acting Guardian of the property of the minor, Constantine Neonakis, having been so appointed as such by this Court on February 15, 1961. The minor is a resident of the country of Greece.

The defendant is now, and has been at all times material hereto a resident of Sioux City, Iowa. She is the widow of Nick Stergios, who died a resident of this county on August 20, 1958, being at that time 66 years of age, and whose estate was probated in this court as No. 22041 Probate.

The defendant and the decedent, Nick Stergios, were married when the defendant was 18 years of age. She is approximately 34 years of age now, so the marriage occurred approximately 16 years ago or about the year 1946. There were no children born of this marriage, and during the marriage and particularly in 1956 the defendant and her husband discussed adopting a child. Her husband was of Greek extraction and spoke both the Greek and English languages. The defendant speaks English, but she does not speak, read or understand Greek, and her education was limited to completion of the Sixth Grade. It appears that after some discussion with her husband about the adoption of a child which she states she thought would live with them, she and her husband in about the year 1958 went to the Greek Consulate in Chicago where certain papers were signed by her "so we could have the baby." The evidence showed that while visiting the Greek Consulate all of the conversation was in Greek, except for that which she had with her husband.

The defendant testified in this case that she signed the papers with reference to the adoption of the minor herein because she thought she would be the child's mother, and that she would not have signed if she had known it would be otherwise.

As a result of the execution of the papers at the Greek Consulate in Chicago by defendant and her husband, legal proceedings were commenced in Greece for the adoption of the minor herein by the decedent alone, and on February 22, 1958 a judgment of adoption was issued by one Stavros Tousas, President of the Court of First Instance of Heraklion, in Greece, whereby the minor herein, then being three years of age, was adopted to the decedent, alone. (Exhibit "3").

Shortly after making the trip to Chicago, the decedent became ill, and as herein above stated he died on August 20, 1958. The minor child, who was the son of Penelope Neonakis, a niece of decedent, was never brought to this country.

The decedent herein died testate, and his will, which is a part of the record herein, dated October 24, 1954, left certain designated real property "to my beloved ward, Eleftheria Stergios," and all other real and personal property to his spouse, the defendant herein.

The plaintiff predicates this action upon the provisions of Sec. 600.6 of the 1962 Code of Iowa, which gives an adoptive child the right to inherit property the same as a natural child, and Sec. 633.13 which provides that a legitimate child born after the making of a last will who is not provided for by any settlement and neither pro-

vided for nor mentioned in such will, shall have the right to inherit the same interest in the parent's real and personal property as though no will had been made, and provides for the taking of such share ratably from the interest of heirs, devisees and legatees. It is conceded that this section applies as well to after-adopted children as to after-born children.

The estate of the decedent has been fully probated and the minor herein was not named as an heir or beneficiary, has not been included in the distribution thereof, and during the course of the probate proceedings no Guardian Ad Litem was appointed for him at any stage of the probate of the estate.

The prayer of the plaintiff is that he be permitted to recover on behalf of his ward, the minor, a two-thirds interest in the estate of the decedent.

The defendant, in her pleadings filed herein, has denied the material allegations of the plaintiff's Petition, raises the question of consent on her part, and alleged fraud in the procuring of her signature to the instruments signed by her in the office of the Greek Consulate.

The ultimate issue of this case, then, is whether the minor, Constantine Neonakis, is entitled to share in the estate of the decedent, Nick Stergios, despite the provisions of the decedent's will.

Preliminary to the decision of that issue is the question of whether the judgment of adoption issued by the Greek Court is recognizable as valid. If it is to be so recognized, the question of whether the plaintiff is en-

titled to share in the estate in view of the limitations imposed by Sec. 567.8 of the 1962 Code of Iowa must be decided.

CONCLUSIONS OF LAW

It is generally held that the status created by an adoption in a state having jurisdiction to create it, will be recognized by the courts of another state to such an extent, at least, as is not inconsistent with the laws and policy of the latter.

> (1 C. J., Sec. 138, P. 1402; Cook v. Estate of Todd, 249 Ia. 1277 (1958), citing Schick v. Howe, 137 Ia. 249.)

Further, when confronted with judgments of a foreign country, the courts have held that such judgment, rendered by a competent court in a proceeding in rem or affecting status is conclusive, and may not be examined on the merits unless there was fraud in securing it.

> (46 A. L. R. 441, and cases cited.)

The Code of Iowa, Sec. 622.55, sets out the requirements relating to the authentication of copies of records and proceedings in the Courts of a foreign country prior to their admission in evidence in Courts of this state. The translation of the record of adoption in this case, at page 5 of Exhibit "3", shows this record fully meets the requirements of the Iowa statute.

The question remains as to whether the defendant, Viola Stergios, has shown that her consent to the adoption of the minor by her husband was obtained through fraud, consent of the spouse of the adopting party being a pre-

requisite to adoption, according to Greek law. (Exhibit No. "7", Interrogatory and answer No. 19.)

Before fraud could be found on the part of the deceased husband in obtaining his wife's consent, the proof thereof required by the law of Iowa must be more than that of a mere preponderance, and must be established by clear, convincing and satisfactory evidence.

When it is considered that the law of Greece prohibits the adoption by any person less than 50 years of age (Exhibit No. "7", Interrogatory and answer No. 16), and that the defendant herein did not qualify under the law because of her age at the time she consented to the adoption by her husband, it then becomes apparent why she, too, did not then join as an adopting party. But this does not lead to the conclusion that her husband was committing fraud upon her or had misled her in leading her to believe that she would be the mother of the child. He was acting upon the advice of his attorney, now deceased. It is more logical to presume that the attorney and the defendant's husband were pursuing the first step in obtaining a child for the defendant, of which she could be the mother, which she stated she wanted, by completing the adoption in Greece by the husband and bringing the child to this country where the defendant could then adopt in accordance with our laws, regardless of the fact that she was under 50 years of age. The plan may or may not have been in the mind of the defendant's husband, but certainly where such an obvious explanation of his actions is apparent, the court could not on the basis of the evidence introduced, find fraud on the part of the decedent, Nick Stergios. It must be remembered that de-

fendant testified her husband became ill after the trip to Chicago and died in August of the same year, thus if his plans were as stated above, they were interfered with by his illness and death.

The court concludes that the judgment of the Greek Court adopting the child to Nick Stergios is conclusive upon this court, no fraud having been shown in its procurement.

Having so concluded, the question remains as to whether the minor child is entitled to share in the estate of the decedent in view of the restrictive provisions and procedural requirements of Sec. 567.8 of the 1962 Code of Iowa, which provides that the right of aliens not residing within the United States or its territories to take real property in this state by succession or testamentary disposition, upon the same terms and conditions as residents and citizens of the United States is dependent in each case upon the existence of a reciprocal right upon the part of citizens of the United States to take real property upon the same terms and conditions as residents and citizens of the respective countries of which such aliens are residents, and which further provide similarly as to personal property, placing the burden in each instance upon such non-resident aliens to establish the fact of existence of the reciprocal right referred to in the statute.

Plaintiff places reliance upon the provisions of a 1951 treaty between the United States and Greece (Exhibit "5", and particularly ART. IX, Subsection 2 as answering defendant's contentions that the burden of proof required by Sec. 567.8 of the Iowa Code was not met, but this par-

ticular subsection deals not with the acquisition of property, but with its disposition after having been acquired. The Iowa statute prevents a taking of such property, which this Court concludes to be synonymous with the acquisition of property, except under the circumstances stated in the statute relative to reciprocity which must be proven by the plaintiff.

A reading of ART. IX, Subsection 1(a), shows that with respect to the acquisition by nationals of Greece of immovable property located in the United States, the laws of the states are effective and recognized by the treaty. This recognition will extend to and include the section of the law of the State of Iowa with which we are concerned here, Sec. 567.8, and the treaty, therefore, does not make ineffective or attempt to nullify that law, nor the burden placed upon the plaintiff by that law. This section of the treaty appears to the court to be an obvious recognition of the rights of the states to make, construe and enforce laws governing the rights of nationals of Greece to acquire immovable property located within the states of the United States.

ART. IX, Sub-section 1(a) and (b) of the treaty (Exhibit "5") merely provide that in the case of nationals of Greece the acquisition of immovable property located within the United States shall be dependent upon the applicable laws of the state within which the property is located; and, in the case of nationals of the United States, that the right to acquire property within the territories of Greece, shall be subject to restrictions which Greece may consider it necessary to impose on the rights of aliens to acquire immovable property.

These provisions are not, as the court reads them, an indication that the reciprocal rights contemplated by Sec. 567.8 of the Iowa Code exists, but strongly indicate that the laws of the parties to the treaty, though they may be entirely different will be effective with respect to the acquisition of immovable property.

The Court is unable to find that the plaintiff has carried the burden imposed by the statute in question. The presumption may not be indulged that such reciprocal rights on the part of citizens of the United States do exist, but as stated, the Court can so find only after sufficient proof thereof has been introduced as required by the section. Additionally, some affirmative evidence on the part of the plaintiff was introduced tending to show that such reciprocal rights may not in fact exist. (Exhibit No. "7", Interrogatory and Answer No. 36.)

It is, therefore, ordered, adjudged and decreed by the Court that the petition of the plaintiff be, and it is hereby dismissed.

Costs taxed to plaintiff.

Plaintiff duly excepts.

APPENDIX III.

Section 567.1, Code of Iowa, 1958
Section 567.8, Code of Iowa, 1958

"567.1 ACQUISITION OF REAL ESTATE. Nonresident aliens, or corporations incorporated under the laws of any foreign country, or corporations organized in this country one-half of the stock of which

is owned or controlled by nonresident aliens, are prohibited from acquiring title to or holding any real estate in this state, except as hereinafter provided.

"The widow and heirs and devisees, being nonresident aliens, of any alien or naturalized citizen who has acquired real estate in this state, may hold the same by devise, descent, or distribution, for a period of twenty years; and if at the end of that time such real estate has not been sold to a bona fide purchaser for value, or such alien heirs have not become residents of this state, such land shall escheat to the state.

"Nothing in this section contained shall prevent aliens from having or acquiring property of any kind within the corporate limits of any city or town in the state, or lands not to exceed three hundred and twenty acres in the name of one person, or any stock in any corporation for pecuniary profit, or from alienating or devising the same.

"This chapter shall not affect the distribution of personal property, and shall apply to real estate heretofore devised or descended when no proceedings for forfeiture have been commenced."

"567.8 ALIENS' INHERITANCES. 1. The right of aliens not residing within the United States or its territories to take real property in this state by succession or testamentary disposition, upon the same terms and conditions as residents and citizens of the United States is dependent in each case upon the existence of a reciprocal right upon the part of citizens of the United States to take real property upon the same terms and conditions as residents and citizens of the respective countries of which such aliens are residents and the right of aliens not residing in the United States or its territories to take personal property in this state by succession or testamentary disposition, upon the same terms and conditions as

residents and citizens of the United States is dependent in each case upon the existence of a reciprocal right upon the part of citizens of the United States to take personal property upon the same terms and conditions as residents and citizens of the respective countries of which such aliens are residents.

"2. The burden shall be upon such nonresident aliens to establish the fact of existence of the reciprocal right set forth in subsection 1.

"3. If such reciprocal rights are not found to exist and if no heirs other than such aliens are found eligible to take such property, the property shall be disposed of as escheated property."

APPENDIX IV.

Treaty of Friendship, Commerce and Navigation between the United States of America and the Kindgdom of Greece

The United States of America and the Kingdom of Greece, desirous of strengthening the bonds of peace and friendship traditionally existing between them and of promoting their economic development and the general welfare of their peoples, and being cognizant of the contributions which may be made toward these ends by arrangements which facilitate and encourage, on bases mutually advantageous, the flow of investment capital and of technology and the further development of productive enterprise and commercial intercourse, have resolved to conclude a Treaty of Friendship, Commerce and Navigation, based in general upon the principles of national and of unconditional most-favored-nation treatment reciprocally accorded, and for that purpose have appointed as their Plenipotentiaries,

The President of the United States of America:

The Honorable John E. Peurifoy, Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece,

and

His Majesty the King of the Helfenes:.

His Excellency Sophocles Venizelos, Prime Minister and Minister of Foreign Affairs,

who having communicated to each other their full powers found in good and due form, have agreed upon the following articles:

Article VIII.

Neither Party shall take unreasonable or discriminatory measures that would impair the legally acquired rights or interests within its territories of nationals and companies of the other Party in the enterprises which they have established or in the capital, skills, art or technology which they have supplied; nor shall either Party unreasonably impede nationals and companies of the other Party from obtaining on equitable terms the capital, skills, arts and technology needed for economic development.

Article IX.

1. Nationals and companies of either Party shall be accorded, within the territories of the other Party, national treatment with respect to acquiring by purchase or otherwise and with respect to owning, leasing, occupying and using land, buildings and other immovable property appropriate to the conduct of commercial, manufacturing, processing, financial, construction, publishing, sci-

entific, educational, philanthropic and professional activities, and for residential and mortuary purposes, subject to the following limitations:

(a) in the case of nationals and companies of Greece the acquisition by purchase, or otherwise, of ownership rights in land, buildings, and other immovable property, within the territories of the United States, shall be dependent upon the applicable laws of the States, Territories and possessions of the United States of America within which such property is located; and

(b) in the case of nationals and companies of the United States of America the right to acquire by purchase, or otherwise, and the right to lease, occupy and use land, buildings, and other immovable property, within the territories of Greece, shall be subject to restrictions which Greece may consider it necessary to impose on the right of aliens to acquire by purchase, or otherwise, and to lease, occupy and use such property in specific frontier and coastal areas.

2. Nationals and companies of either Party shall be permitted freely to dispose of property within the territories of the other Party with respect to the acquisition of which through testate or intestate succession their alienage has prevented them from receiving national treatment, and they shall be permitted a term of at least five years in which to effect such disposition.

3. Nationals and companies of either Party shall be accorded within the territories of the other Party national treatment with respect to disposing of property of all kinds.

Article XXIV

1. The term "national treatment" means treatment accorded within the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of such Party. The term does not imply immunity from the laws and regulations of a Party which apply in a non-discriminatory manner to nationals, companies, products, vessels, or other objects, as the case may be, of both Parties.

2. The term "most-favored-nation treatment" means treatment accorded within the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of any third country.